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**MAY 09 2001**

**OFFICE OF PETITIONS  
A/C PATENTS**

In re Application of  
Xu Shi, Beng Kang Tay, Hong Siang :  
Tan and David Ian Flynn :  
Application No. 09/236,113 :  
Filed: January 25, 1999 :  
Title: CATHODE ARC SOURCE AND :  
GRAPHITE TARGET :

LETTER

Dear Mr. Flynn:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

*Beverly M. Flanagan*  
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DECISION ACCORDING STATUS  
UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration of petition under 37 C.F.R. 1.47(a), filed December 4, 2000 (and supplemented by facsimile transmission on April 19, 2001).

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor in the petition.

The initial petition filed September 13, 1999, was dismissed because applicant failed to show that a *bona fide* attempt had been made to present the application papers to non-signing inventor Flynn, including the specification, claims and drawings and not just the declaration, power of attorney and assignment (Decision mailed October 3, 2000). A review of the record reveals that applicant also failed to include a statement of the last known address of the non-signing inventor in the petition. Rather, applicant stated that the last known address was included in the declaration. This is not acceptable. The statement must be included in the petition, and cannot be incorporated therein by reference.

On instant request for reconsideration, applicant submitted *inter alia* a second declaration of facts of George W. Schlich, in which; attorney Schlich declared that on November 8, 2000, an additional copy of the declaration and assignment was forwarded to Mr. Flynn, along with a copy of the application as filed. Inventor Flynn did not respond. Given this additional declaration, it is concluded that applicant has demonstrated that a *bona fide* attempt was made to present the non-signing inventor with a copy of all of the application papers for signature.

Petitioner also filed a supplement to the petition, which included a statement of the last known address of non-signing inventor Flynn.


This application is hereby accorded Rule 1.47(a) status.

As no petition fee is required on request for reconsideration under §1.47(a), the fee submitted has been credited to Deposit Account No. 19-0036, as authorized.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

  
Beverly M. Flanagan  
Supervisory Petitions Examiner  
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Office of the Deputy Commissioner  
for Patent Examination Policy